

AFM ZNW

TRANSMITTAL OF APPEAL BRIEF (Large Entity)

Docket No.
YOR920000148US1

Inventor Application Of: **Thomas A. Cofino, et al.**

(16415)

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/556,725	April 21, 2000	Richard C. Fults	23389	3628	6637

Invention: **BUSINESS METHOD FOR COMPARISON SHOPPING WITH DYNAMIC PRICING OVER A NETWORK**

COMMISSIONER FOR PATENTS:

Transmitted herewith in triplicate is the Appeal Brief in this application, with respect to the Notice of Appeal filed on
November 4, 2005

The fee for filing this Appeal Brief is: **\$500.00**

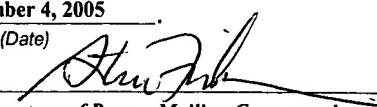
- ☐ A check in the amount of the fee is enclosed.
- ☐ The Director has already been authorized to charge fees in this application to a Deposit Account.
- ☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. **50-0510/IBM**
- ☐ Payment by credit card. Form PTO-2038 is attached.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.


Signature

Dated: **December 4, 2005**

Steven Fischman
Registration No. 34,594
SCULLY, SCOTT, MURPHY & PRESSER
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on December 4, 2005 (Date)
 Signature of Person Mailing Correspondence
Steven Fischman Typed or Printed Name of Person Mailing Correspondence

SF/BMM:ej
cc:



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Appellant: Thomas A. Cofino

Examiner: Richard C. Fults

Serial No: 09/556,725

Art Unit: 3628

Filed: April 21, 2000

Docket: YOR920000148US1 (16415)

For: BUSINESS METHOD FOR
COMPARISON SHOPPING
WITH DYNAMIC PRICING
OVER A NETWORK

Dated: January 4, 2006

Conf. No.: 6637

Mail Stop Appeal Brief- Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

01/10/2006 BABRAHA1 00000057 500510 09556725
01 FC:1402 500.00 DA

APPEAL BRIEF

Sir:

INTRODUCTION

Pursuant to 35 U.S.C. § 134 and 37 C.F.R. § 1.191 and § 41.37, entry of this Appeal Brief in support of the Notice of Appeal filed November 4, 2005 in the above-identified matter is respectfully requested. This paper is submitted as a brief setting forth the authorities and arguments upon which Appellants rely in support of the appeal from the Final Rejection of Claims 1-35 in the above-identified patent application on July 8, 2005.

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Appeal Brief – Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on January 4, 2006.

Dated: January 4, 2006


Steven Fischman

1. STATEMENT OF REAL PARTY OF INTEREST

The real party of interest in the above-identified patent application is International Business Machines Corporation.

2. STATEMENT OF RELATED APPEALS AND INTERFERENCES

There are no pending appeals or interferences related to this application to Appellant's knowledge.

3. STATEMENT OF THE STATUS OF THE CLAIMS

A. Claim Status

Claims 1-35 have been rejected under 35 U.S.C. §103(a) as being unpatentable over "New Tools Make It Easier to Find the Lowest Price" by Tedeschi ("Tedeschi") in view of U.S. Patent No. 6,598,026 to Ojha et al. ("Ojha").

B. Appealed Claims

Claims 1-35 are appealed, a clean copy of which are attached hereto in Appendix A.

4. STATEMENT OF STATUS OF AMENDMENTS

The claims were not amended in the Response to the Final Rejection filed September 8 2005.

5. SUMMARY OF CLAIMED SUBJECT MATTER

The invention with respect to claim 1 comprises a computer-implemented method of doing business on a network comprising: providing a user with access to a first online store through one or more networks and via an on-screen display, the first online store having one or more products, each with a product description and a price, the product description and price being provided to the user via the on-screen display; receiving one or more selection requests for said one or more products from the user via the on-screen display, wherein one of the products is a selected product; providing a fixed shopping mode, via the on-screen display, where said user conducts a product purchase transaction for said selected product via the first online store; and providing a dynamic price shopping mode, via the on-screen display, where the user initiates an auction in real-time for generating bids for the selected product from different online stores, other than the first online store; wherein the on-screen display allows the user to begin shopping in the fixed shopping mode, then initiate the auction in the dynamic shopping mode, then elect to return to shopping in the fixed shopping mode without being obligated to accept any of the bids provided in the dynamic shopping mode, but having a choice to select any of the bids provided in the dynamic shopping mode (page 11, lines 6-15; page 11, line 21 to page 12, line 10; page 12, lines 11-17; Fig. 2).

The invention with respect to claim 2 comprises a method as claimed in claim 1 where the different online stores are provided by a set of pre-registered merchants that agree to provide the bids for the selected product (page 13, lines 11-18).

The invention with respect to claim 3 comprises a method as claimed in claim 1 where the bids include bid conditions that include any one or more of the following: a selected product price, a shipping method, a shipping time, a handling method, a product packaging, a set of product delivery instructions, a provision of better deals for bundling two or more products, a recommendation of comparable and/or related products, a provision of customer service programs including express checkout in online stores, wish lists, gift registries, reward programs, discount for certain shopping groups, custom-configurable products, email notification services, services, and products (page 13,

line 21 to page 14, line 6).

The invention with respect to claim 4 comprises a method as claimed in claim 1 where one or more of the different online stores provides an additional bid for an additional product, other than the selected product (page 14, lines 7-9).

The invention with respect to claim 5 comprises a method as claimed in claim 4 where the additional product includes any one or more of the following: a replacement product, an up-sell product, a cross-sell product, a combination product to be used with the selected product, an alternative product, and a related product (page 21, lines 1-7).

The invention with respect to claim 6 comprises a method as claimed in claim 1 where one or more of the different stores can re-bid to the user after placing their bids (page 14, lines 15-16; page 16, lines 8-11).

The invention with respect to claim 7 comprises a method as claimed in claim 1 where one or more of the selected products is organized in a product ontology (page 18, lines 9-14; page 21, line 10 to page 22, line 2).

The invention with respect to claim 8 comprises a method as claimed in claim 7 where the ontology specifies one or more attributes of a service (page 18, lines 9-14; page 21, line 10 to page 22, line 2).

The invention with respect to claim 9 comprises a method as claimed in claim 8 where the service includes any one or more of the following: insurance, training, financing, banking, stock brokerage, real estate sales, car sales, airline tickets, real estate maintenance, professional services, legal services, business management services, medical services, sales, travel, education, entertainment, computer programming, technical design, web page design, home maintenance, repairs, services, and products (page 22, line 8-13).

The invention with respect to claim 10 comprises a method as claimed in claim 7 where the ontology specifies one or more attributes of a product (page 18, lines 9-14; page 21, line 10 to page 22, line 2)..

The invention with respect to claim 11 comprises a method as claimed in claim 10 where the attributes include any one or more of the following: a product name, a product manufacturer, a product model number, one or more product identification numbers including a product UPC (Universal Product Code), a product SKU (Stock Keeping Unit) number, or ISBN in case of books, one or more categories the product belongs to, one or more components of the product and their value, one or more accessories of the product, and one or more product features (page 20, lines 16-18; page 23, lines 15-20).

The invention with respect to claim 12 comprises a method as claimed in claim 8 where the bid conditions are presented to the user arranged in an order according to one or more of the attributes (page 16, lines 2-6).

The invention with respect to claim 13 comprises a method as claimed in claim 1 where the auction can be any one or more of the following: a standard auction, a parcel bidding, a Dutch auction, a reverse auction, an express auction, a private auction, and a bartering (page , lines).

The invention with respect to claim 14 comprises a method as claimed in claim 1 where one or more of the bids are arranged in an order (page 16, lines 2-6).

The invention with respect to claim 15 comprises a method as claimed in claim 14 where the order includes any one or more of the following: one or more of the product attributes, a customer satisfaction rating, a price, a delivery, a handling option, a shipping time and cost, and existence of one or more customer programs including express checkout in online stores, wish lists, gift registries, reward programs, discount for certain shopping groups, custom-configurable products, and email notification services (page , lines).

The invention with respect to claim 16 comprises a method as claimed in claim 1 where one or more of the products is a complex product comprising more than one component (page , lines).

The invention with respect to claim 17 comprises a method as claimed in claim 16 where the more than one component is provided by at least two of the different online stores in a joint bid (page , lines).

The invention with respect to claim 18 comprises a method as claimed in claim 1 where one or more of the products includes one or more of the following: a set of one or more of the other products and a service (page 21, line 10 to page 22, line 2).

The invention with respect to claim 19 comprises a method as claimed in claim 1 where personal information about the user is not disclosed to the different online stores when the user initiates the auction (page 17, lines 6-8).

The invention with respect to claim 20 comprises a method as claimed in claim 1 wherein: the first online store and the different online stores have been identified and preselected by the user (page 19, lines 1-2).

The invention with respect to claim 21 comprises a method as claimed in claim 1 wherein: the bids conform to bid conditions (page 16, lines 10-11).

The invention with respect to claim 22 comprises a method as claimed in claim 1 wherein: when the bids are generated, the user has the further choice to select one or more of the bids, and initiate another round of bids from one or more of the different online stores that provided the selected one or more bids (page 16, lines 8-11).

The invention with respect to claim 23 comprises a method as claimed in claim 1 wherein: a starting price for the bids is a price set by the first online store for the selected product (page 19, lines 5-6).

The invention with respect to claim 24 comprises a computer-implemented method for enabling a user to purchase products on a computer network, comprising: receiving requests for web pages from a web browser running at a user's computer; obtaining the web pages and providing them to the web browser; monitoring the obtained web pages to determine whether they include a product page that describes a product offered by a first online store; when the monitoring determines that the web pages include the product page, parsing the product page to obtain information regarding the product; preparing a bid request using the obtained information; wherein a selectable icon is displayed on the web browser such that the user has a choice to select the selectable icon to

begin a bid process, or to continue shopping at the first on-line store via the product page; responsive to the user selecting the icon, beginning a bid process for the product by submitting the bid request to different online stores, other than the first online store; receiving bids from the different online stores for the product, responsive to the bid request; preparing a bid list from the received bids; wherein the bid list lists information regarding the bids from the different online stores; providing the bid list to the web browser for display thereon; wherein, upon display of the bid list, the user has a choice to select one of the bids in the bid list to communicate with the online store that made the selected bid to purchase the product or a comparable product, or to continue shopping at the first on-line store via the product page (page 11, lines 6-15; page 11, line 21 to page 12, line 10; page 12, lines 11-17; page 15, line 4 to page 16, line 18; Figs. 2 and 3).

The invention with respect to claim 25 comprises a method as claimed in claim 24 wherein: upon display of the bid list, the user has the further choice to select one or more of the bids, and initiate another round of bids from one or more of the different online stores that provided the selected one or more bids (page 14, lines 15-16; page 16, lines 8-11).

The invention with respect to claim 26 comprises a method as claimed in claim 24 wherein: the bid request submitted to the different online stores includes a price of the product obtained from the product page (page 13, lines 21-22).

The invention with respect to claim 27 comprises a method as claimed in claim 24 wherein: the selectable icon is displayed with the product page on the web browser (page 11, line 22).

The invention with respect to claim 28 comprises a method as claimed in claim 24 wherein: the bid list is displayed with the product page on the web browser (page 12, line 3).

The invention with respect to claim 29 comprises a method as claimed in claim 24 wherein: the information obtained regarding the product offered by the first online store includes a name, price and attributes (page 20, lines 16-18; page 23, lines 15-20).

The invention with respect to claim 30 comprises a method as claimed in claim 24 wherein: the first online store and the different online stores are preferred online stores (page 13, lines 11-18).

The invention with respect to claim 31 comprises a method as claimed in claim 24 wherein: the bid process comprises an auction in real-time (page , lines).

The invention with respect to claim 32 comprises a computer-implemented method for enabling a user to purchase products on a computer network, comprising: providing requests for web pages from a web browser running at a user's computer to an Internet Service Provider (ISP); wherein: the ISP obtains the web pages and provides them to the web browser; a bid agent monitors the obtained web pages to determine whether they include a product page that describes a product offered by a first online store; when the bid agent determines that the web pages include the product page, the bid agent parses the product page to obtain information regarding the product, and prepares a bid request using the obtained information; displaying a selectable icon on the web browser such that the user has a choice to select the selectable icon to begin a bid process or to continue shopping at the first on-line store via the product page; responsive to the user selecting the icon, communicating with the bid agent to begin the bid process for the product in which the bid request is submitted to different online stores, other than the first online store; wherein the bid agent communicates with a bid broker that receives bids from the different online stores for the product, responsive to the bid request; the bid broker prepares a bid list listing information from the received bids; and receiving the bid list and displaying the bid list on the web browser; wherein, upon display of the bid list, the user has a choice to select one of the bids in the bid list to communicate with the online store that made the selected bid to purchase the product or a comparable product, or to continue shopping at the first on-line store via the product page (page 11, lines 6-15; page 11, line 21 to page 12, line 10; page 12, lines 11-17; page 15, line 4 to page 16, line 18; Figs. 2 and 3).

The invention with respect to claim 33 comprises a method as claimed in claim 32 wherein: upon display of the bid list, the user has the further choice to select one of the bids in the bid list, and send a request for another round of bids to the different online stores (page 14, lines 15-16; page

16, lines 8-11).

The invention with respect to claim 34 comprises a method as claimed in claim 32 further comprising: displaying the selectable icon with the product page on the web browser (page 11, line 22).

The invention with respect to claim 35 comprises a method as claimed in claim 32 further comprising: displaying the bid list with the product page on the web browser (page 12, line 3).

6. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The issue presented for review is whether claims 1-35 are unpatentable under 35 U.S.C. § 103(a) over “New Tools Make It Easier to Find the Lowest Price” by Tedeschi (“Tedeschi”) in view of U.S. Patent No. 6,598,026 to Ojha et al. (“Ojha”).

7. ARGUMENTS

A. The rejection of claims 1-35, on appeal, under 35 U.S.C. § 103, as being unpatentable over Tedeschi in view of Ojha et al. is improper.

1. CLAIMS 1, 24, and 32

In the Final Official Action, dated July 8, 2005, the Examiner rejected all the pending claims under 35 U.S.C. § 103(a) as being unpatentable over “New Tools Make It Easier to Find the Lowest Price” by Tedeschi (“Tedeschi”) in view of U.S. Patent No. 6,598,026 to Ojha et al. (“Ojha”).

Appellant respectfully disagrees with the Examiner’s characterization and interpretation of the references cited and discussed in the Final Office Action. Because the references do not, in fact, describe what is alleged in the Final Office Action, Appellants submit that the suggestion and motivation to combine these references is improper and that the section 103(a)

rejections are improper.

With respect to independent claim 1, the Examiner states that Tedeschi discloses all of the recited elements except providing a dynamic price shopping mode where the user initiates an auction in real-time for generating bids for the selected product from different online stores. The Examiner further states that Ojha discloses providing a dynamic price shopping mode where the user initiates an auction in real-time for generating bids for the selected product from different online stores, and that it would have been obvious to modify Tedeschi to incorporate the teachings of Ojha for the purpose of allowing the user to obtain a better price of the selected product via the auction, because auction is a special mode of purchase in which the user can submit bids in order to purchase a product with a better price.

With respect to independent claims 24 and 32, the Examiner states that Tedeschi discloses all of the recited elements except that Tedeschi discloses preparing a purchase request and purchase process at different online stores instead of a bid request and bid process at different online stores. The Examiner further states that Ojha discloses preparing a bid request and bid process at different online stores and that it would have been obvious to modify Tedeschi to incorporate the teachings of Ojha for the purpose of allowing the user to obtain a better price for the selected product via the auction, because auction is a special mode of purchase in which the user can submit bids in order to purchase a product with a better price.

Tedeschi discusses e-commerce price comparison web sites. Tedeschi superficially explains that there are browser-based product search agents and price comparison web sites. The browser-based product search agents scan various shopping web sites and retrieve purchasing data for a particular product and display the purchasing data for the particular product to a shopper. The price comparison sites are independent web sites that compile retail store product data and provide a

shopper with a list retail stores from which a particular product can be purchased. The shopper must then navigate to the particular retail store's web site. Unlike Appellant's invention, Tedeschi mentions nothing about e-commerce bidding or auctions, or the like, or a need for such a function to be incorporated into the existing e-commerce retail shopping or price comparison environment.

Ojha teaches a method and apparatus for brokering transactions. The method and apparatus facilitate a transaction between a buyer and one of a plurality of sellers via the Internet. Product information relating to a plurality of products meeting product criteria specified by the buyer is presented via the Internet. One of the plurality of sellers is associated with each of the products. A first bid from the buyer for a first one of the plurality of products is made available via the Internet to a first seller associated with the first product. A first bid response is presented via the Internet to the buyer according to response criteria specified by the seller. The entire auction/bidding process is executed through a common transaction site (col. 9, lines 18-20). A buyer may only shop for (solicit bids for) products that are listed in a proprietary database (col. 9, line 37-41). If the desired product is not listed in the proprietary database, the buyer cannot use the system taught by Ojha to make a purchase. Ojha mentions nothing about e-commerce retail shopping or price comparison web sites, or the like. Further, Ojha mentions nothing about a need for integrating the disclosed bidding/auction system with an e-commerce retail shopping or price comparison environment.

In contrast, Appellant's invention recites an integrated e-commerce retail shopping and bidding method. Appellant's invention enables a shopper to shop at any online store for a particular product, while also soliciting bids for a better price of the particular product. While the shopper shops at any online store, a bidding agent residing on a server associated with the shopper's Internet Service Provider (ISP) tracks and retrieves product information related to the shoppers

product of interest. The shopper has the option of purchasing the particular product at any online store of his choice, or soliciting bids for prices from a variety of additional retail stores.

Unlike the systems disclosed in Tedeschi, Appellant's system does not necessarily limit the shopper to the prices for a particular product found on a particular retail web site or a price comparison website. Appellant's system provides the shopper with the opportunity to solicit bids from retailers that may be lower than prices listed on various web sites.

Unlike the method and apparatus disclosed in Ojha, Appellant's method enables a shopper to shop any retail site or price comparison site that the shopper desires while also soliciting bids for lower prices. The shopper is thus not limited to using the bidding feature. Further, the shopper is not limited to products listed in a proprietary database. The shopper can shop for products wherever he wishes.

The Examiner states that it would have been obvious to modify Tedeschi to incorporate the teachings of Ojha for the purpose of allowing the user to obtain a better price for the selected product via the auction, because auction is a special mode of purchase in which the user can submit bids in order to purchase a product with a better price. The Examiner cannot base obviousness upon what a person skilled in the art could, or might, try but rather must consider what the prior art would have led a person skilled in the art to do. In re Antonie, 559 F.2d 618 195 USPQ 6 (CCPA, 1977). To prevent the use of hindsight based on the invention to defeat patentability of the invention, the Examiner must show a motivation to combine the references that create the case of obviousness. In re Rouffet, 47 USPQ2d 1453 (Fed. Cir., July 15, 1998). The conclusion asserted by the Examiner represents an impermissible use of hindsight gained from the present invention.

Further, combining Tedeschi and Ojha is improper because each of these references fails to suggest or disclose a motivation for combining the references.

The U.S. Court of Appeals for the Federal Circuit (the “Federal Circuit”) has consistently and repeatedly stated the legal test applicable to rejections under 35 U.S.C. § 103(a). Recently the Federal Circuit Court stated:

[V]irtually all [inventions] are combinations of old elements. Therefore an Examiner may often find every element of a claimed invention in the prior art. Furthermore, rejecting patents solely by finding prior art corollaries for the claimed elements would permit an Examiner to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention. Such an approach would be “an illogical and inappropriate process by which to determine patentability.” To prevent the use of hind sight based on the invention to defeat patentability of the invention, this court requires the Examiner to show a motivation to combine the references that create the case of obviousness. The Board [of Appeals] did not, however, explain what specific understanding or technological principle within the knowledge of one of ordinary skill in the art would have suggested the combination. Instead, the Board merely invoked the high level of skill in the field of the art. If such a rote indication could suffice to supply a motivation to combine, the more sophisticated scientific fields would rarely, if ever, experience a patentable technical advance. Instead, in complex scientific fields, the Board could routinely identify the prior art elements in an application, invoke the lofty level of skill, and rest its case for rejection. To counter this potential weakness in the obviousness construct **the suggestion to combine requirements stands as a critical safeguard against hindsight analysis and rote application of the legal test for obviousness.**

In re Rouffet, 47 USPQ2d 1453, 1457-58 (Fed. Cir., July 15, 1998) (citations omitted, emphasis added).

More recently, the Federal Circuit again dealt with what is required to show a motivation to combine references under 35 U.S.C. § 103(a). In this case the court reversed the decision of the Board of appeals stating:

[R]ather than pointing to specific information in Holiday or Shapiro that suggest the combination..., the Board instead described in detail the similarities between the Holiday and Shapiro references and the claimed invention, noting that one reference or the other-in combination with each other... described all of the limitations of the pending claims. Nowhere does the Board particularly identify any suggestion, teaching, or motivation to combine the ... references, nor does the Board make specific-or even inferential-findings concerning the identification of the relevant art, the level of ordinary skill in the art, the nature

of the problem to be solved, or any factual findings that might serve to support a proper obviousness analysis.

In re Dembiczak, 50 USPQ2d 1614, 1618 (Fed. Cir., April 28, 1999) (citations omitted).

Thus, from both *In re Rouffet* and *In re Dembiczak* it is clear that the Federal Circuit requires a specific identification of a suggestion, motivation, or teaching why one of ordinary skill in the art would have been motivated to select the references and combine them. This the Examiner has not done.

In view of the foregoing, it is respectfully submitted that, with respect to independent claim 1, Tedeschi and Ojha, whether taken alone or in combination, do not teach or suggest the subject matter recited in claim 1 as each of these references fails at least to teach or suggest a computer-implemented method of doing business on a network. The method includes providing a user with access to a first online store through one or more networks and via an on-screen display, the first online store having one or more products, each with a product description and a price, the product description and price being provided to the user via the on-screen display. The method further includes receiving one or more selection requests for the one or more products from the user via the on-screen display, wherein one of the products is a selected product. The method still further includes providing a fixed shopping mode, via the on-screen display, where the user conducts a product purchase transaction for said selected product via the first online store. The method yet further includes providing a dynamic price shopping mode, via the on-screen display, where the user initiates an auction in real-time for generating bids for the selected product from different online stores, other than the first online store, wherein the on-screen display allows the user to begin shopping in the fixed shopping mode, then initiate the auction in the dynamic shopping mode, then elect to return to shopping in the fixed shopping mode without being obligated to accept any of the bids provided in the dynamic shopping mode, but having a choice to select any of the bids provided in the dynamic shopping mode.

Independent claim 24 and 32 recite similar features as claim 1, and therefore are patentably distinct over Tedeschi and Ojha for at least the reasons discussed in connection with claim 1.

In light of the state of the law as set forth by the Federal Circuit and the Examiner's mischaracterization of the cited references both individually, and with regard to the motivation to combine the cited references, the Appellants respectfully submit that the rejections for obviousness under 35 U.S.C. § 103(a) lack the requisite motivation and must be withdrawn.

2. CLAIMS 2-23, 25-31, and 33-35

Claims 2-23, 25-31, and 33-35, which depend directly or indirectly from the independent claims 1, 24, and 32 incorporate all of the limitations of the corresponding independent claim and are therefore patentably distinct over Tedeschi and Ojha for at least those reasons provided for claims 1, 24, and 32.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steven Fischman", with a long horizontal line extending to the right.

Steven Fischman
Registration No.: 34,594

SCULLY SCOTT MURPHY & PRESSER
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343

SF:BMM:ej

APPENDIX A

CLAIMS ON APPEAL: CLAIMS 1-35

Application Serial No. 09/556,725

1. (Rejected) A computer-implemented method of doing business on a network comprising:
providing a user with access to a first online store through one or more networks and via an on-screen display, the first online store having one or more products, each with a product description and a price, the product description and price being provided to the user via the on-screen display;

receiving one or more selection requests for said one or more products from the user via the on-screen display, wherein one of the products is a selected product;

providing a fixed shopping mode, via the on-screen display, where said user conducts a product purchase transaction for said selected product via the first online store; and

providing a dynamic price shopping mode, via the on-screen display, where the user initiates an auction in real-time for generating bids for the selected product from different online stores, other than the first online store;

wherein the on-screen display allows the user to begin shopping in the fixed shopping mode, then initiate the auction in the dynamic shopping mode, then elect to return to shopping in the fixed shopping mode without being obligated to accept any of the bids provided in the dynamic shopping mode, but having a choice to select any of the bids provided in the dynamic shopping mode.

2. (Rejected) A computer-implemented method, as in claim 1, where the different online stores are provided by a set of pre-registered merchants that agree to provide the bids for the selected product.

3. (Rejected) A computer-implemented method, as in claim 1, where the bids include bid conditions that include any one or more of the following: a selected product price, a shipping

method, a shipping time, a handling method, a product packaging, a set of product delivery instructions, a provision of better deals for bundling two or more products, a recommendation of comparable and/or related products, a provision of customer service programs including express checkout in online stores, wish lists, gift registries, reward programs, discount for certain shopping groups, custom-configurable products, email notification services, services, and products.

4. (Rejected) A computer-implemented method, as in claim 1, where one or more of the different online stores provides an additional bid for an additional product, other than the selected product.

5. (Rejected) A computer-implemented method, as in claim 4, where the additional product includes any one or more of the following: a replacement product, an up-sell product, a cross-sell product, a combination product to be used with the selected product, an alternative product, and a related product.

6. (Rejected) A computer-implemented method, as in claim 1, where one or more of the different stores can re-bid to the user after placing their bids.

7. (Rejected) A computer-implemented method, as in claim 1, where one or more of the selected products is organized in a product ontology.

8. (Rejected) A computer-implemented method, as in claim 7, where the ontology specifies one or more attributes of a service.

9. (Rejected) A computer-implemented method, as in claim 8, where the service includes any one or more of the following: insurance, training, financing, banking, stock brokerage, real estate

sales, car sales, airline tickets, real estate maintenance, professional services, legal services, business management services, medical services, sales, travel, education, entertainment, computer programming, technical design, web page design, home maintenance, repairs, services, and products.

10. (Rejected) A computer-implemented method, as in claim 7, where the ontology specifies one or more attributes of a product.

11. (Rejected) A computer-implemented method, as in claim 10, where the attributes include any one or more of the following: a product name, a product manufacturer, a product model number, one or more product identification numbers including a product UPC (Universal Product Code), a product SKU (Stock Keeping Unit) number, or ISBN in case of books, one or more categories the product belongs to, one or more components of the product and their value, one or more accessories of the product, and one or more product features.

12. (Rejected) A computer-implemented method, as in claim 8, where the bid conditions are presented to the user arranged in an order according to one or more of the attributes.

13. (Rejected) A computer-implemented method, as in claim 1, where the auction can be any one or more of the following: a standard auction, a parcel bidding, a Dutch auction, a reverse auction, an express auction, a private auction, and a bartering.

14. (Rejected) A computer-implemented method, as in claim 1, where one or more of the bids are arranged in an order.

15. (Rejected) A computer-implemented method, as in claim 14, where the order includes any

one or more of the following: one or more of the product attributes, a customer satisfaction rating, a price, a delivery, a handling option, a shipping time and cost, and existence of one or more customer programs including express checkout in online stores, wish lists, gift registries, reward programs, discount for certain shopping groups, custom-configurable products, and email notification services.

16. (Rejected) A computer-implemented method, as in claim 1, where one or more of the products is a complex product comprising more than one component.

17. (Rejected) A computer-implemented method, as in claim 16, where the more than one component is provided by at least two of the different online stores in a joint bid.

18. (Rejected) A computer-implemented method, as in claim 1, where one or more of the products includes one or more of the following: a set of one or more of the other products and a service.

19. (Rejected) A computer-implemented method, as in claim 1, where personal information about the user is not disclosed to the different online stores when the user initiates the auction.

20. (Rejected) A computer-implemented method, as in claim 1, wherein:
the first online store and the different online stores have been identified and preselected by the user.

21. (Rejected) A computer-implemented method, as in claim 1, wherein:
the bids conform to bid conditions.

22. (Rejected) A computer-implemented method, as in claim 1, wherein:

when the bids are generated, the user has the further choice to select one or more of the bids, and initiate another round of bids from one or more of the different online stores that provided the selected one or more bids.

23. (Rejected) A computer-implemented method, as in claim 1, wherein:

a starting price for the bids is a price set by the first online store for the selected product.

24. (Rejected) A computer-implemented method for enabling a user to purchase products on a computer network, comprising:

receiving requests for web pages from a web browser running at a user's computer;

obtaining the web pages and providing them to the web browser;

monitoring the obtained web pages to determine whether they include a product page that describes a product offered by a first online store;

when the monitoring determines that the web pages include the product page, parsing the product page to obtain information regarding the product;

preparing a bid request using the obtained information;

wherein a selectable icon is displayed on the web browser such that the user has a choice to select the selectable icon to begin a bid process, or to continue shopping at the first on-line store via the product page;

responsive to the user selecting the icon, beginning a bid process for the product by submitting the bid request to different online stores, other than the first online store;

receiving bids from the different online stores for the product, responsive to the bid request;

preparing a bid list from the received bids;

wherein the bid list lists information regarding the bids from the different online stores;

providing the bid list to the web browser for display thereon;

wherein, upon display of the bid list, the user has a choice to select one of the bids in the bid

list to communicate with the online store that made the selected bid to purchase the product or a comparable product, or to continue shopping at the first on-line store via the product page.

25. (Rejected) The computer-implemented method of claim 24, wherein:

upon display of the bid list, the user has the further choice to select one or more of the bids, and initiate another round of bids from one or more of the different online stores that provided the selected one or more bids.

26. (Rejected) The computer-implemented method of claim 24, wherein:

the bid request submitted to the different online stores includes a price of the product obtained from the product page.

27. (Rejected) The computer-implemented method of claim 24, wherein:

the selectable icon is displayed with the product page on the web browser.

28. (Rejected) The computer-implemented method of claim 24, wherein:

the bid list is displayed with the product page on the web browser.

29. (Rejected) The computer-implemented method of claim 24, wherein:

the information obtained regarding the product offered by the first online store includes a name, price and attributes.

30. (Rejected) The computer-implemented method of claim 24, wherein:

the first online store and the different online stores are preferred online stores.

31. (Rejected) The computer-implemented method of claim 24, wherein:

the bid process comprises an auction in real-time.

32. (Rejected) A computer-implemented method for enabling a user to purchase products on a computer network, comprising:

providing requests for web pages from a web browser running at a user's computer to an Internet Service Provider (ISP); wherein:

the ISP obtains the web pages and provides them to the web browser;

a bid agent monitors the obtained web pages to determine whether they include a product page that describes a product offered by a first online store;

when the bid agent determines that the web pages include the product page, the bid agent parses the product page to obtain information regarding the product, and prepares a bid request using the obtained information;

displaying a selectable icon on the web browser such that the user has a choice to select the selectable icon to begin a bid process or to continue shopping at the first on-line store via the product page;

responsive to the user selecting the icon, communicating with the bid agent to begin the bid process for the product in which the bid request is submitted to different online stores, other than the first online store;

wherein the bid agent communicates with a bid broker that receives bids from the different online stores for the product, responsive to the bid request;

the bid broker prepares a bid list listing information from the received bids; and

receiving the bid list and displaying the bid list on the web browser;

wherein, upon display of the bid list, the user has a choice to select one of the bids in the bid list to communicate with the online store that made the selected bid to purchase the product or a comparable product, or to continue shopping at the first on-line store via the product page.

33. (Rejected) The computer-implemented method of claim 32, wherein:
upon display of the bid list, the user has the further choice to select one of the bids in the bid list, and send a request for another round of bids to the different online stores.
34. (Rejected) The computer-implemented method of claim 32, further comprising:
displaying the selectable icon with the product page on the web browser.
35. (Rejected) The computer-implemented method of claim 32, further comprising:
displaying the bid list with the product page on the web browser.

APPENDIX B

EVIDENCE SUBMITTED

Application Serial No. 09/556,725

There is no evidence relied upon by the Appellants in this appeal.

APPENDIX C

RELATED PROCEEDINGS

Application Serial No. 09/556,725

There are no pending appeals or interferences related to this application to Appellants' knowledge.